

# **Report to the Board of Adjustment**

Prepared by the Maricopa County Planning and Development Department

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**Case: BA2006077**

Variance

Hearing Date:

August 9, 2006

Agenda Item:

13

Supervisory District:

3

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**Applicant:**

Charles Parrott

**Owner:**

Mario and Kim Ezrre

**Request:**

**Variances to permit:**

- 1) An existing single-family residence to setback 21'-7" from the side (south) property line where 30 feet is the minimum required; and
- 2) An existing detached accessory structure (shade cover) to setback 3'-10" from the side (north) property line where 30 feet is the minimum required in the Rural-43 zoning district.

**These variances are requested from the following Zoning Ordinance Section(s):**

Section 503, Article 503.4.2

**Site Location:**

36815 N. 20<sup>th</sup> Street - (Desert Hills area)

**Site Size:**

51,182 square feet (1.17 acres)

**Existing Zoning:**

Rural-43

**Current Use:**

Residential

**Citizen**

**Support/Opposition:**

The New River Desert Hills Community Association opposes the request.

## Staff

**Recommendation:**                    1) **Approve** with stipulations  
                                                 2) **Deny**

### Existing On-Site and Surrounding Zoning:

1.     On-site:        Rural-43  
       North:        Rural-43  
       South:        Rural-43  
       East:          Rural-43  
       West:          Rural-43

### Existing On-Site and Surrounding Land Use:

2.     On-site:        Single-family residence  
       North:        Single-family residence  
       South:        Single-family residence  
       East:          Single-family residence  
       West:          20<sup>th</sup> Street/Single-family residence

### Background:

3.     **June 29, 1999:** Parcel 211-69-047A was split to create parcels **211-69-047C** (subject parcel) and 211-69-047D.
4.     **September 14, 2000:** The completed single-family residence passed a final inspection as noted in available records for building permit **B200002510**.
5.     **September 20, 2000:** The property owners obtained the subject site via a Warranty Deed recorded under docket number **2000-0723194**.
6.     **December 4, 2002:** An aerial photo taken on this date showed the first known appearance of an accessory structure in the northeast portion of the property.
7.     **May 8, 2006:** The owners applied for a building permit (**B200607097**) for an addition.
8.     **June 23, 2006:** Staff sent a fax to the owner indicating building permit B200607097 could not be approved without a variance due to the location of the house within the required side yard.
9.     **July 3, 2006:** The applicants met with staff for a pre-application meeting. The location of a detached accessory structure within the required side yard was also apparently discussed in this meeting.

10. **July 5, 2006:** The applicant applied for these variance requests.

### Findings:

11. **Maricopa County Department of Transportation:** No response at the time this report was written.
12. **Flood Control District:** No response at the time this report was written.
13. **Environmental Services Department:** No response at the time this report was written.
14. **Drainage Administration:** No drainage concerns.
15. New River Desert Hills Community Assoc.: Opposes this request (see attached letter).

### Site Analysis:

16. The subject site fronts along 20<sup>th</sup> Street, and is located approximately ½-mile south of Joy Ranch Road. The lot is rectangular in shape, measuring approximately 155-feet in width and 331-feet in depth. The total area of the subject site is approximately 51,182 square feet. Access is taken from 20<sup>th</sup> Street via a gravel driveway that runs just inside the south property line. The subject site is lightly landscaped and is relatively flat, and is free of any apparent physical or topographical hardships.



Aerial photo of subject site

17. The site is developed with an approximately 3,725 square foot single-family residence with an attached garage, a 800 square foot detached shade structure, a small storage shed apparently within the rear yard, and various equestrian features. Staff was unable to find evidence of permits being issued for the accessory the structures on the subject site. Various types of fencing are also located on the property and along the property boundaries. An existing septic tank is shown to be located north of the dwelling and a new septic tank is shown to the west of the dwelling.
18. An addition was proposed to be located on the northwest portion of the dwelling and is the subject of Building Permit B200607097. The proposed addition encompasses approximately 1965 square feet and appears to be well within the buildable area, as it was represented in the submitted site plans. In the review of this permit, it was discovered that the single-family residence fails to meet the required side yard setback. Staff also discovered the location of an 800 foot shade structure that is also within the required side yard setback.
19. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	156-feet
Rear Yard Setback (residence)	40-feet	69-feet
Rear Yard Setback (accessory)	3-feet	35-feet
Side Yard Setback (residence)	30-feet	<b>21.6-feet</b>
Side Yard Setback (accessory)	30-feet	<b>3.8-feet</b>
Street Side Setback	20-feet	n/a
Maximum Height	30-feet/2 stories	14-feet/1 story
Minimum Lot Area	43,560 sq. ft.	51,182 square feet
Minimum Lot Width	145-feet	154.5-feet
Lot Coverage	15%	10.38/14.89%**
Minimum Building Separation	15-feet	40-feet

\*Standards indicated in **bold** do not meet minimum base zoning standards.

\*\* Indicates current coverage and coverage to include proposed addition.

## Land Use Analysis:

20. The subject site is located in the Desert Hills area, south of Joy Ranch Road on 20<sup>th</sup> Street. The Town of Cave Creek is located approximately one mile to the east. This area is transitioning from large lot, rural properties to somewhat smaller, suburban, residential properties. While the larger rural and ranch properties are rapidly disappearing, many of the new properties continue to incorporate equestrian facilities and accessory uses typically found in rural areas. The majority of the development in the area is occurring through the lot splitting process.

21. Staff research indicates that five relevant Board of Adjustment cases have been heard recently within the immediate area. The cases are summarized below:

- Case **BA2006001** was a request for a variance to permit an existing water storage tank to setback 9 feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district. The property is located at 37415 N. 16<sup>th</sup> Street, approximately ½ miles northwest of the subject site. The Board of Adjustment approved this request with stipulations.
- Case **BA2005049** was a request for a variance to permit a proposed single-family residence to setback 40 feet from the front (west) property line where 50 feet is the minimum required in the Rural-43. This site is located at 36607 N. 25<sup>th</sup> Street, approximately ½ miles southeast of the subject site. The Board of Adjustment approved this request with stipulations.
- Case **BA2004094** was a request for a variance to permit an existing attached carport to setback 18 feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district. This site is located at 36922 N. 24<sup>th</sup> Street, approximately ½ miles east of the subject site. The Board of Adjustment denied this request.
- **BA2004018** was a request for variances to permit: 1) An existing detached accessory building (shed) to setback 7 feet from the street side (west) property line where 20 feet is the minimum required; and 2) An existing detached accessory building (garage under construction) to setback 16'-4" from the side (east) property line where 30 feet is the minimum required in the Rural-43 zoning district. This site is located at 37037 N. 16<sup>th</sup> Street, approximately ½ miles northwest of the subject site. The Board of Adjustment approved these requests with stipulations.
- Case **BA2003102** was a request for variances to permit: 1) an existing detached accessory structure (horse shade) to setback 50 feet from the side (north) property line where 70 feet is the minimum required; and 2) an existing detached accessory structure (covered horse stalls) to setback 80 feet from the front (west) property line where 90 feet is the minimum required in the Rural-43 zoning district. This site is located at 36440 N. 21st Street, approximately ¼ miles south of the subject site. The Board of Adjustment approved these requests with stipulations.

## Plan Analysis:

22. The first request is to allow an existing single family residence to setback 21.6 feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district. This request came about when the owner submitted the site plan which indicated a 21.6 foot side yard setback for the residence. The residence was built with a permit in 2000 however, records for that permit are partial and do not include the approved site plan. It should be noted that due to orientation of the residence, it is not the entire length of the residence that encroaches into the required side yard setback, but a portion thereof. The only available alternative to this request would be to remove approximately 8.4 feet of the single-family residence. Staff believes that this request is reasonable in nature and that the hardship is not self-created. Granting this request will not have a negative impact on surrounding properties and is not out of character with the area. Staff recommends that this request be approved.
23. The second request is to allow an existing detached accessory structure (shade cover) to setback 3.8 feet from the side (north) property line where 30 feet is the minimum required. This request came about when staff discovered that the structure is located in the required side yard setback. This structure was apparently added by the current owner as evidenced by available aerial photos of the site. If a permit had been requested, the applicant would have been informed about the setback requirements for this type of structure. Staff believes that there are reasonable alternatives to this variance request. The property owner could relocate the shade structure within the building envelope or the required rear yard. Staff is sympathetic to the request, but could find no evidence of any physical or topographical hardship that would require this shade structure to be placed in its current location. Staff recommends denial of this request

## Recommendation: (BA2006077)

24. Staff recommends **approval** of variance request **1** based on the following:
- The relief requested is the minimum required necessary to provide the owner with full use and enjoyment of the property.
  - The request does not conflict with the intent of the Zoning Ordinance.

Subject to the following stipulations:

- a) General compliance with the revised site plan entitled "Room Addition" dated July 5, 2006.
  - b) The owner shall obtain as-built permits and/or zoning clearances for all structures within 120 days of Board approval.
25. If the Board finds that a reasonable use of the property can be made without this variance, then this request should be denied.

26. Staff recommends **denial** of variance request **2** based on the following:
- There is no hardship associated with this request. Any hardship in this case is self-created due to the failure to obtain permits for the structures in question.
  - There are reasonable alternatives available to the applicant that would eliminate the need for this variance.
  - Granting these requests would confer a special privilege to the owner.
  - The request conflicts with the intent of the Zoning Ordinance and may have a negative impact on surrounding properties.
27. If the Board finds that a reasonable use of the property cannot be made without this variance, then this request may be approved, subject to the following stipulations:
- a) General compliance with the revised site plan entitled "Room Addition" dated July 5, 2006.
  - b) The owner shall obtain as-built permits and/or zoning clearances for all structures within 120 days of Board approval.

gcb

**Attachments:** Case Map BA2006077  
Zoning Map  
Assessor Map  
Site Plan  
Application  
Supplemental Questionnaire  
Photos (2 pages)  
NR-DHCA Letter